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6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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9 SHERMAN L. DAVIS,) No. C 07-4447 MJJ (PR)
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Petitioner,

v.

STATE OF CALIFORNIA,

Respondent.

ORDER OF DISMISSAL

15 This case was opened when petitioner filed a document titled "Motion an Declaration of
16 Good Cause for Equitable Tolling and Extension of Time to File Federal Petition – Criminal
17 Conviction." In this motion, petitioner seeks to toll the running of the statute of limitations for a
18 federal habeas petition he wishes to file in the future.

19 Article III, Section 2 of the United States Constitution restricts adjudication in federal courts
20 to "Cases" and "Controversies." See Valley Forge Christian College v. Americans United for
21 Separation of Church and State, Inc., 454 U.S. 464, 471 (1982). In the absence of an actual petition
22 for a writ of habeas corpus or other civil complaint, there is no case or controversy for this Court to
23 adjudicate. See Green v. United States, 260 F.3d 78, 82 (2d Cir. 2001). Although, in some
24 instances, a motion may be construed to be a petition for a writ of habeas corpus, see id. at 83-84,
25 petitioner here has not alleged any grounds for such relief, and indeed it is clear that he is not asking
26 for relief from his conviction, but rather from the applicable statute of limitations. Moreover, the
27 Court cannot discern from the instant filing whether petitioner can meet even the most basic
28 requirements for proceeding with a habeas petition in federal court and, in particular, in the Northern

1 District, such as proper jurisdiction and venue. Consequently, the motion will not be construed as a
2 habeas petition.

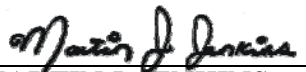
3 Accordingly, the above-titled action is hereby DISMISSED without prejudice to petitioner's
4 filing a petition for a writ of habeas corpus or a complaint for other relief. The application to
5 proceed in forma pauperis is hereby GRANTED.

6 This order terminates all pending motions.

7 The Clerk shall close the file.

8 IT IS SO ORDERED.

9 DATED: 10/02/07

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11 MARTIN J. JENKINS
12 United States District Judge
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